RECORD AND BRIEFS

No. 16-5294

IN THE SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
JUL 15 2016
OFFICE OF THE CLERK

JAMES EDMOND MCWILLIAMS, JR.,

Petitioner,

v.

JEFFERSON S. DUNN,
COMMISSIONER, ALABAMA DEPARTMENT OF CORRECTIONS, ET AL.,

Respondent.

On Petition for Writ of Certiorari
to the United States Court of Appeals
for the Eleventh Circuit

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

Petitioner James E. McWilliams, by and through undersigned counsel and pursuant to Supreme Court Rule 39, respectfully requests leave to proceed *in forma pauperis*. McWilliams is filing a petition for writ of certiorari simultaneously with this Motion, seeking review of the decision of the United States Court of Appeals for the Eleventh Circuit affirming the District Court's denial of McWilliams's petition for a writ of habeas corpus. Although McWilliams was found indigent and

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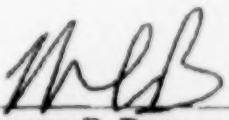
appointed counsel to represent him in the trial court, leave to proceed *in forma pauperis* has not previously been sought in this matter.

McWilliams has been incarcerated on death row at Holman Correctional Facility ever since his conviction and death sentence in 1986. Attachment A is the notarized Affidavit Accompanying Motion for Permission to Appeal *in Forma Pauperis*.

WHEREFORE, Mr. McWilliams respectfully requests that this Court grant him leave to proceed *in forma pauperis*.

Respectfully submitted, this 15th day of July, 2016.



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ATTACHMENT A

UNITED STATES SUPREME COURT

James Edmond McWilliams, Jr.,	)	
	)	
Petitioner,	)	
	)	
v.	)	
	)	Case No. _____
Jefferson S. Dunn, Commissioner,	)	
Alabama Department of Corrections, et al.,	)	
	)	
Respondent.	)	

AFFIDAVIT ACCOMPANYING MOTION FOR PERMISSION TO APPEAL IN FORMA PAUPERIS

Affidavit in Support of Motion

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.)

Signed: James C. McWilliams

Instructions

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

Date: 13 Feb 2018

My issues on appeal are:

See attached petition

1. *For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.*

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	$ 0	$ 0	$ 0	$ 0
Self-employment	$ 0	$ 0	$ 0	$ 0
Income from real property (such as rental income)	$ 0	$ 0	$ 0	$ 0
Interest and dividends	$ 0	$ 0	$ 0	$ 0
Gifts	$ 0	$ 0	$ 0	$ 0
Alimony	$ 0	$ 0	$ 0	$ 0
Child support	$ 0	$ 0	$ 0	$ 0
Retirement (such as social security, pensions, annuities, insurance)	$ 0	$ 0	$ 0	$ 0
Disability (such as social security, insurance payments)	$ 0	$ 0	$ 0	$ 0
Unemployment payments	$ 0	$ 0	$ 0	$ 0
Public-assistance (such as welfare)	$ 0	$ 0	$ 0	$ 0
Other (specify):	$ 0	$ 0	$ 0	$ 0
Total monthly income:	$ 0	$ 0	$ 0	$ 0

2. *List your employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)*

Employer	Address	Dates of employment	Gross monthly pay
N/A	N/A	N/A	$ 0
N/A	N/A	N/A	$ NONE
N/A	N/A	N/A	$ 0

3. *List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)*

Employer	Address	Dates of employment	Gross monthly pay
N/A	N/A	N/A	$ 0
			$ 0
N/A	N/A	N/A	$ 0

4. *How much cash do you and your spouse have?* $_____

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount you have	Amount your spouse has
SEE ATTACHMENT	Prison	$ 0	$ 0
N/A	N/A	$ 0	$ 0
N/A	N/A	$ 0	$ 0

If you are a prisoner seeking to appeal a judgment in a civil action or proceeding, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. *List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.*

Home	Other real estate	Motor vehicle #1
(Value) $	(Value) $	(Value) $ 0
0	0	Make and year: N/A
		Model: N/A
		Registration # N/A

Motor vehicle #2	Other assets	Other assets
(Value) $ -0-	(Value) $ -0-	(Value) $ -0-
Make and year: N/A	N/A	None N/A
Model: None	None	
Registration #: N/A	N/A	N/A

6. *State every person, business, or organization owing you or your spouse money, and the amount owed.*

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
-None-	$ -0-	$ 0
None	$ 0	$ 0
None	$ 0	$ 0
None	$ 0	$ 0

7. *State the persons who rely on you or your spouse for support.*

Name [or, if under 18, initials only]	Relationship	Age
None	N/A	0
None	N/A	0
None	N/A	0

8. *Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.*

	You	Your Spouse
Rent or home-mortgage payment (include lot rented for mobile home) Are real estate taxes included? [ ] Yes [X] No Is property insurance included? [ ] Yes [X] No	$ 0	$ 0

Utilities (electricity, heating fuel, water, sewer, and telephone)	$ 0	$ 0
Home maintenance (repairs and upkeep)	$ 0	$ 0
Food	$ 0	$ 0
Clothing	$ 0	$ 0
Laundry and dry-cleaning	$ 0	$ 0
Medical and dental expenses	$ 3.00	$ 3.00
Transportation (not including motor vehicle payments)	$ 0	$ 0
Recreation, entertainment, newspapers, magazines, etc.	$ 0	$ 0
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's:	$ 0	$ 0
Life:	$ 0	$ 0
Health:	$ 0	$ 0
Motor vehicle:	$ 0	$ 0
Other:	$ 0	$ 0
Taxes (not deducted from wages or included in mortgage payments) (specify):	$ 0	$ 0
Installment payments		
Motor Vehicle: N/A	$ 0	$ 0
Credit card (name): N/A	$ 0	$ 0
Department store (name): N/A	$ 0	$ 0
Other: None	$ 0	$ 0
Alimony, maintenance, and support paid to others	$ 0	$ 0
Regular expenses for operation of business, profession, or farm (attach detailed statement)	$ 0	$ 0
Other (specify): Hygiene Items — deodorant, toothpaste, ect	$ 10.00	$ 10.00
Total monthly expenses:	$ 10.00	$ 10.00

9. *Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?*

[ ] Yes [✓] No If yes, describe on an attached sheet.

10. *Have you spent — or will you be spending — any money for expenses or attorney fees in connection with this lawsuit?* [ ] Yes [✓] No

If yes, how much? $ _____

11. *Provide any other information that will help explain why you cannot pay the docket fees for your appeal.*
ALABAMA DEPT. OF CORRECTIONS does NOT allow DEATH ROW INMATES TO EARN AN INCOME, WHICH PREVENTS ME FROM BEING ABLE TO PAY THE DOCKET FEE.

12. *State the city and state of your legal residence.* ATMORE, ALABAMA

Your daytime phone number: (251) NONE

Your age: 55 *Your years of schooling:* 14

Last four digits of your social-security number: 5298

James E. McWilliams

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT. EXECUTED ON JULY 13, 2016

Dawn Williams
NOTARY PUBLIC

My Commission Expires July 17, 2016

Alabama Department of Corrections

ITF001

Average Inmate Deposit Balances for MCWILLIAMS, JAMES EDMOND JR AIS# 0000Z467

	Average Balance	Gross Deposits
06/30/2016	$11.13	$54.00
05/31/2016	$7.57	$35.00
04/30/2016	$9.86	$60.00
03/31/2016	$5.49	$25.00
02/29/2016	$0.03	$0.00
01/31/2016	$0.03	$0.00
12/31/2015	$1.20	$34.00
11/30/2015	$1.68	$0.00
10/31/2015	$32.92	$185.00
09/30/2015	$5.52	$24.00
08/31/2015	$11.27	$24.00
07/31/2015	$8.62	$40.00
	$7.78	$481.00

I certify that this is a true and correct copy of James McWilliams average balances and gross deposits.

Nikita Tucker

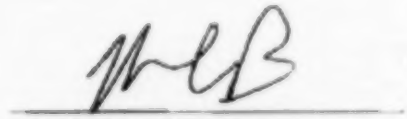
Nikita Tucker

Run Date: 7/13/2016 12:22:08 PM

CERTIFICATE OF SERVICE

I hereby certify that, in accordance with Supreme Court Rule 29, on July 15, 2016, I served a copy of the foregoing via first-class mail, postage prepaid, and via email, upon counsel for the Respondent:

Henry M. Johnson
Assistant Attorney General
501 Washington Avenue
Montgomery, Alabama 36130-0152
Tel. 334-353-9095
hjohnson@ago.state.al.us



Mark Loudon-Brown